

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

MISSISSIPPI STATE CONFERENCE OF THE
NATIONAL ASSOCIATION FOR THE
ADVANCEMENT OF COLORED PEOPLE; DR.
ANDREA WESLEY; DR. JOSEPH WESLEY;
ROBERT EVANS; GARY FREDERICKS; PAMELA
HAMNER; BARBARA FINN; OTHO BARNES;
SHIRLINDA ROBERTSON; SANDRA SMITH;
DEBORAH HULITT; RODESTA TUMBLIN; DR.
KIA JONES; MARCELEAN ARRINGTON;
VICTORIA ROBERTSON,

Plaintiffs,

vs.

STATE BOARD OF ELECTION COMMISSIONERS;
TATE REEVES, *in his official capacity as Governor of
Mississippi*; LYNN FITCH, *in her official capacity as
Attorney General of Mississippi*; MICHAEL WATSON,
*in his official capacity as Secretary of State of
Mississippi*,

Defendants,

AND

MISSISSIPPI REPUBLICAN EXECUTIVE
COMMITTEE,

Intervenor-Defendant.

**CIVIL ACTION NO.
3:22-cv-734-DPJ-HSO-LHS**

**PLAINTIFFS' MOTION IN LIMINE TO EXCLUDE UNTIMELY EXPERT
TESTIMONY FROM DR. PETER MORRISON**

Plaintiffs the Mississippi State Conference of the National Association for the Advancement of Colored People, Dr. Andrea Wesley, Dr. Joseph Wesley, Robert Evans, Gary Fredericks, Pamela Hamner, Barbara Finn, Otho Barnes, Shirlinda Robertson, Sandra Smith, Deborah Hulitt, Rodesta Tumblin, Dr. Kia Jones, Marcelean Arrington, and Victoria Robertson

(collectively, “Plaintiffs”) respectfully move this Court for an order to exclude the untimely testimony offered by Dr. Peter Morrison on December 11, 2023 from trial, and to limit Dr. Morrison’s trial testimony to that which was timely disclosed on October 16, 2023.

1. In a report submitted on October 16, 2023, Dr. Morrison offers conclusions about the voter registration and turnout of Black and White Mississippians based on certain analysis of unverified survey data from the Current Population Survey (“CPS”). Plaintiffs’ counsel deposed Dr. Morrison on December 1, 2023.

2. On December 11, 2023, Defendants sent counsel for Plaintiffs a new report from Dr. Morrison they termed a “supplemental” report. However, the report was not proper supplementation because it does not correct the October report or offer new information not available at the time Dr. Morrison prepared the October report. Rather, it contained two statistical methods not used or discussed in the October report and offered new conclusions about statistical significance testing of the differences in Black and White registration and turnout in the CPS survey data.

3. The December report is untimely as it comes eight weeks after Defendants’ disclosure deadline and is not a proper supplement. Defendants’ attempt to introduce an untimely expert report causes prejudice to Plaintiffs because the discovery period has closed and Plaintiffs already deposed Dr. Morrison on December 1. It is too late for Plaintiffs to depose Dr. Morrison on his two new methodologies and trial is set for next month.

4. As such, Rules 16, 26, and 37 provide that this Court may exclude the December 11, 2023 Expert Report of Dr. Peter Morrison from use at trial.

5. Plaintiffs hereby incorporate in further support of this Motion their accompanying Memorandum of Law and the following exhibits:

Exhibit A – October 16, 2023 Expert Report of Peter A. Morrison

Exhibit B – December 1 Deposition Transcript

Exhibit C – E-mail to Plaintiffs’ Counsel from Defendants’ Counsel

Exhibit D – December 11, 2023 Expert Report of Peter A. Morrison

Exhibit E – Emails between Plaintiffs’ Counsel and Defendants’ Counsel

WHEREFORE, pursuant to Rules 16, 26 and 37, Plaintiffs respectfully request that this Court grant Plaintiffs’ Motion *In Limine* to exclude from trial the December 11, 2023 Expert Report of Dr. Peter Morrison and any testimony regarding the opinions and analysis therein.

This the 4 day of January, 2024.

/s/ Joshua Tom

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CERTIFICATE OF SERVICE

I, Joshua Tom, do certify that on this day I caused to be served a true and correct copy of the foregoing by electronic mail to all counsel of record.

This the 4 day of January, 2024.

/s/ Joshua Tom

Joshua Tom